

## REQUEST FOR COUNCIL ACTION

MEETING  
DATE: 03-17-03

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AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-8
ITEM DESCRIPTION: Annexation Petition #03-04 by the owners of Lots 1, 2, 11, 12 and 13 Osjor Estates 3 <sup>rd</sup> Subdivision. The applicants request annexation to the City of Rochester. The area to be annexed includes Lots 1, 2, 11, 12, and 13 Osjor Estates Third Subdivision and the abutting road right-of-way. The properties are located in Sections 20 and 29 Haverhill Township and includes approximately 6 acres of land.		PREPARED BY: Theresa Fogarty, Planner

March 12, 2003

### City Planning and Zoning Commission Recommendation:

The City Planning and Zoning Commission reviewed this annexation request on February 26, 2003. The Commission found that this property can be served by city services upon extension of the sewer through the City's Water Quality Protection Program and waterlines which are currently available on the south side of Viola Road NE, just east of 35<sup>th</sup> Avenue NE intersection. The Planning Commission therefore recommends approval of this request.

Mr. Staver moved to recommend approval of Annexation Petition #03-04.  
Ms. Petersson seconded the motion. The motion carried 7-0.

### Planning Department Recommendation:

See attached staff report, dated February 18, 2003.

Minnesota Statutes now specify that the property taxes payable in the year an annexation is effective shall be paid to the Township. For the five years following the annexation, the City must make a cash payment to the Township equaling 90%, 70%, 50%, 30% and 10% of the Townships share of the taxes in the year the property was annexed. The Township Taxes on this property for 2002 is \$519.55.

### Council Action Needed:

1. Following the public hearing, if the Council wishes to proceed as petitioned, it should instruct the City Attorney to prepare an ordinance to be adopted and transmitted to the MN Planning /Office of Strategic and Long Range Planning.

### Attachments

1. Staff report, dated February 18, 2003.
2. Copy of the minutes of the February 26, 2003, CPZC meeting

### Distribution:

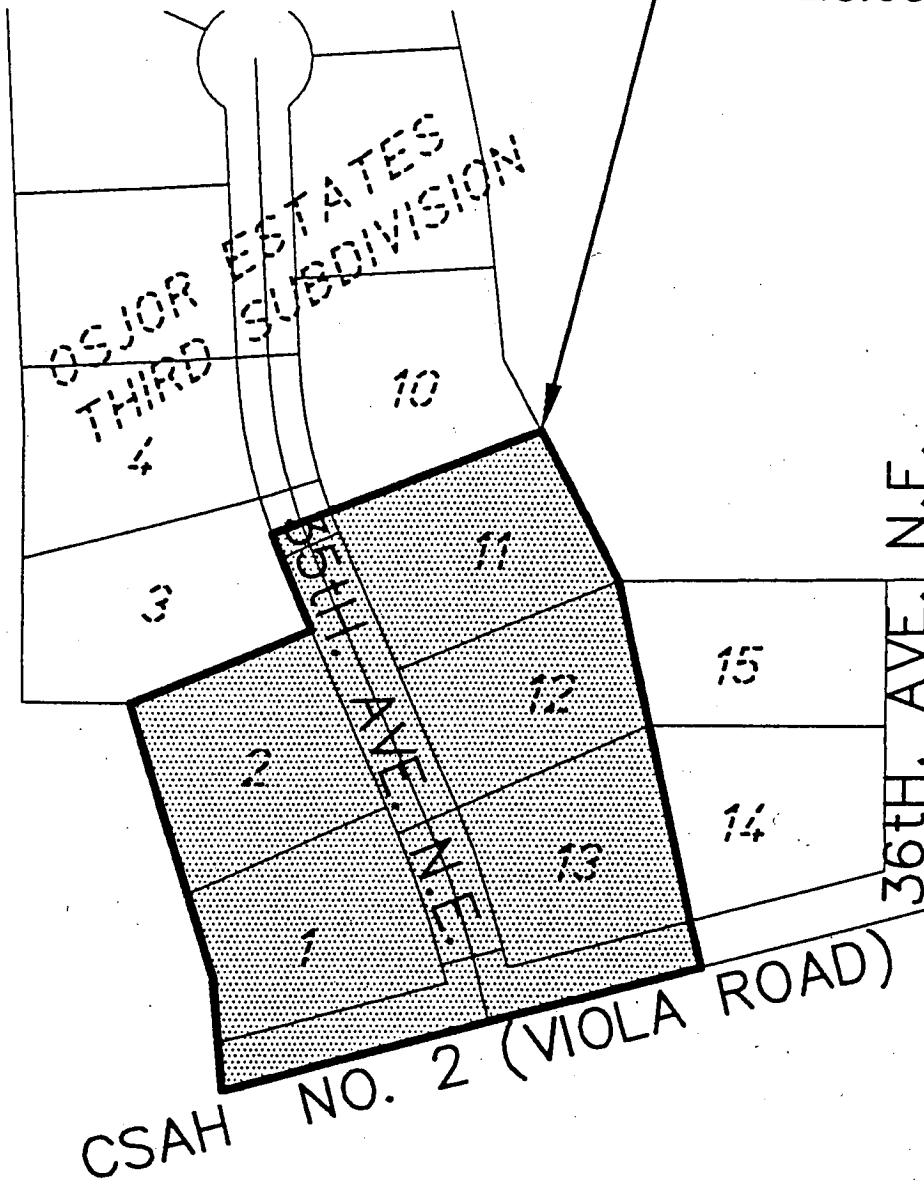
1. City Administrator
2. City Clerk
3. City Attorney: Legal Description Attached
4. City Finance Director: Tax Information Attached
5. Planning Department File
6. Applicant: This item will be considered sometime after 7:00 p.m. on Monday , March 17, 2003 in the Council Chambers at the Rochester / Olmsted County Government Center.
7. WHKS & Company

COUNCIL ACTION: Motion by: \_\_\_\_\_ Second by: \_\_\_\_\_ to: \_\_\_\_\_

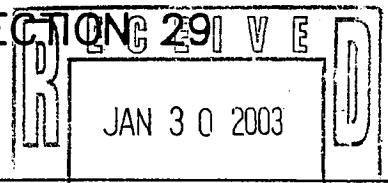
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# ANNEXATION EXHIBIT

AREA TO BE ANNEXED  
±5.95 ACRES



S.E. CORNER OF S.W.  
QUARTER SECTION 20  
N.E. CORNER OF N.W.  
QUARTER SECTION 29



SCALE:	1" = 200'
DRAWN BY:	BWC, MRD
DATE:	09/13/02
PROJECT NO.	6202

FOR:

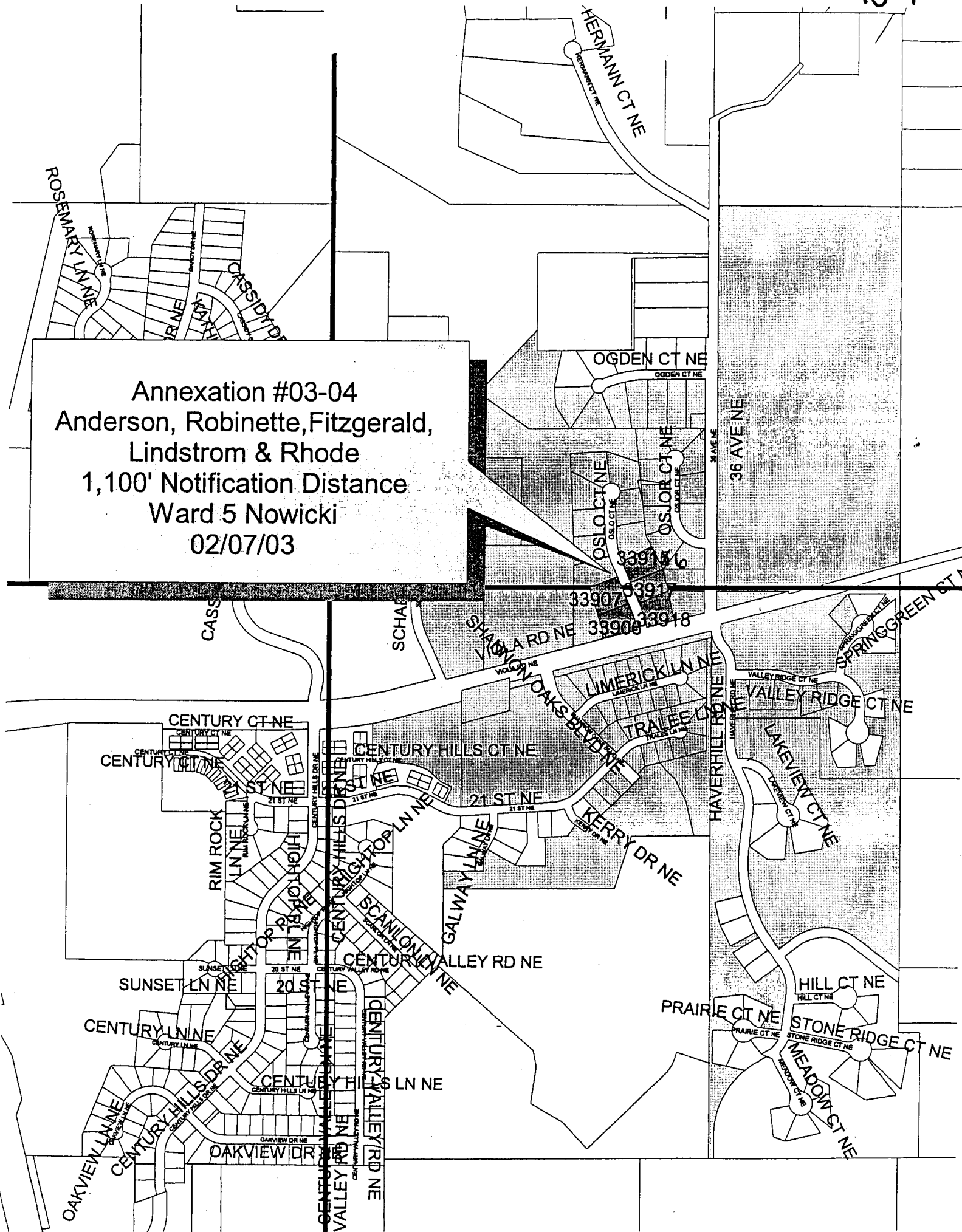
CITY OF ROCHESTER  
ROCHESTER, MINNESOTA

ROCHESTER OLNSTED  
PLANNING DEPARTMENT

WHIKS & CO.

ENGINEERS PLANNERS LAND SURVEYORS

Annexation #03-04  
Anderson, Robinette, Fitzgerald,  
Lindstrom & Rhode  
1,100' Notification Distance  
Ward 5 Nowicki  
02/07/03



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**MINUTES OF THE  
CITY OF ROCHESTER PLANNING COMMISSION  
2122 CAMPUS DRIVE SE – SUITE 100  
ROCHESTER MN 55904**

Minutes of the regularly scheduled meeting of the City Planning and Zoning Commission held on Wednesday, February 26, 2003, at 7:00 p.m. in the Council/Board Chambers of the Government Center, 151 4th Street SE, Rochester, MN.

**Members Present:** Ms. Lisa Wiesner, Chair; Mr. Michael Quinn, Vice Chair; Ms. Mary Petersson; Ms. Leslie Rivas; Mr. Randy Staver; Mr. Robert Haeussinger; and Mr. James Burke

**Members Absent:** Mr. John Hodgson and Mr. Paul Ohly

**Staff Present:** Mr. Brent Svenby and Ms. Jennifer Garness

**Other City Staff Present:** Ms. Pat Alfredson, City Attorney

**ADMINISTRATIVE BUSINESS:**

Mr. Haeussinger made a motion to approve the minutes of February 12, 2003, with the revision that Ms. Petersson adjourned the meeting. Mr. Staver seconded the motion. The minutes from February 12, 2003 were approved unanimously.

Mr. Svenby asked that the memo from CUDE (regarding nonresidential parking standards) be discussed under "Other Business."


Ms. Wiesner clarified that Annexations #03-03, #03-04, and #03-05 were not public hearing items and asked the Commission to move them to the head of the agenda.

Ms. Petersson made a motion to approve the agenda, hearing Annexations #03-03, #03-04, and #03-05 ahead of the "Continued Items" and adding a discussion under "Other Business" with regard to the memo submitted from CUDE. Ms. Rivas seconded the motion. The motion carried unanimously.

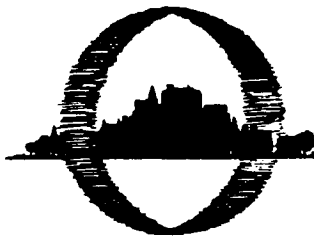
**ANNEXATIONS:**

**Annexation Petition #03-03 by Arcon Development, Inc. to annex approximately 19.35 acres of land located west of 18<sup>th</sup> Avenue SW (CR 147), west of Hart Farms Subdivision, north of 40<sup>th</sup> Street SW . The property is located in the North Half of the SW ¼ of Section 22 of Rochester Township.**

**Ms. Petersson moved to recommend approval of Annexation Petition #03-03 by Arcon Development, Inc. Mr. Burke seconded the motion. The motion carried 7-0.**

 **Annexation #03-04 by the owners of Lots 1, 2, 11, 12, 13 Osjor Estates 3<sup>rd</sup> Subdivision. The applicants request annexation to the City of Rochester. The area to be annexed includes Lots 1, 2, 11, 12, and 13 Osjor Estates Third Subdivision and the abutting road rights-of-way. The properties are located in Sections 20 and 29 Haverhill Township and include approximately 6 acres of land.**

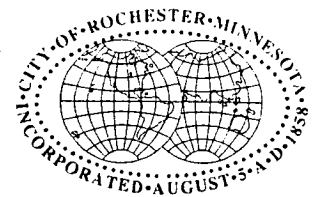
**Mr. Staver moved to recommend approval of Annexation #03-04. Ms. Petersson seconded the motion. The motion carried 7-0.**



## ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF  
*Olmsted*



**TO:** City Planning and Zoning Commission

**FROM:** Theresa Fogarty, Planner

**DATE:** February 18, 2003

**RE:** Annexation Petition #03-04 by the owners of Lots 1, 2, 11, 12 and 13 Osjor Estates 3<sup>rd</sup> Subdivision. The applicants request annexation to the City of Rochester. The area to be annexed includes Lots 1, 2, 11, 12 and 13 Osjor Estates Third Subdivision and the abutting road right-of-way. The properties are located in Sections 20 and 29 Haverhill Township and includes approximately 6 acres of land.

### Planning Department Review:

**Applicants/Owners:**

Max and Lorene Robinett  
2502 Oslo Court NE  
Rochester, MN 55906

Larry and Connie Fitzgerald  
2511 Oslo Court NE  
Rochester, MN 55906

Bruce and Nancy Rohde  
2510 Oslo Court NE  
Rochester, MN 55906

Larry and Linda Anderson  
2503 Oslo Court NE  
Rochester, MN 55906

Dean and Ruth Lindstrom  
2604 Oslo Court NE  
Rochester, MN 55906

**Consultant / Engineer:**

WHKS & Company  
2905 South Broadway Street  
Rochester, MN 55904

**Location of Property:**

The property is located north Shannon Oaks Subdivision along Viola Road (CR 2).

**Existing Land Use:**

This property is currently a platted subdivision, Osjor Estates Third.

**Size:**

The property proposed for annexation is approximately 6 acres of platted land. Each lot is approximately ½ acre in size.



<b>Existing Zoning:</b>	The property is zoned R-1 (Residential) District on the Olmsted County zoning map.
<b>Future Zoning:</b>	Upon annexation, the property will be zoned R-1 (Mixed Single Family Residential) district on the Rochester zoning map.
<b>Land Use Plan:</b>	This property is designated for "low density residential" uses on the Rochester Urban Service Area Land Use Plan.
<b>Adjacency to the Municipal Limits:</b>	The property is adjacent to the city limits along its southern boundary.
<b>Sewer &amp; Water:</b>	<p>This area is within the Northeast High Level Water System area, which is currently available on the south side of Viola Road NE, just east of 35<sup>th</sup> Avenue NE intersection. Approximately static pressures will range from 40 to 53 PSI.</p> <p>The petitioned area can be served by City Sanitary Sewer through the City's Water Quality Protection Program (WQPP).</p>
<b>Utilities:</b>	Pursuant to Minnesota Statutes 414.033 (subd. 13), a municipality must notify a petitioner that the cost of electric utility service may change if the land is annexed to the municipality. A notice has been provided to the applicant.
<b>Fire Department:</b>	All buildings are required to display the proper street address number on the building front. Number size must be a minimum 4" high on contrasting background when located on the building and 3" high if located on a rural mail box at the public road fronting the property. Reflective numbers are suggested.
<b>Townboard Review:</b>	Minnesota State Statutes require that the Townboard members receive a written notice, by certified mail, 30 days prior to the public hearing. The City Council will hold a public hearing on this item on March 17, 2003. The City Clerk has sent the certified 30 day notice.
<b>Referral Comments:</b>	<ol style="list-style-type: none"><li>1. Rochester Public Utilities - Water Division</li><li>2. Rochester Public Works Department</li><li>3. Rochester Fire Department</li></ol>
<b>Report Attachments:</b>	<ol style="list-style-type: none"><li>1. Annexation Map</li><li>2. Location Map</li><li>3. Referral Comments (3letters)</li><li>4. Copy of letter from Tony Ebert, Haverhill Townboard, dated September 24, 2002.</li></ol>

**Staff Recommendation:**

This property is adjacent to the City limits and can be served by city services upon extension of the sewer through the City's Water Quality Protection Program and water lines which are currently available on the south side of Viola Road NE, just east of 35<sup>th</sup> Avenue NE intersection. The Planning staff recommends that the City proceed to adopt an ordinance annexing the property according to Minnesota Statutes 414.033, Subdivision 2(3).



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February 4, 2003

Rochester-Olmsted  
CONSOLIDATED PLANNING DEPARTMENT  
2122 Campus Drive SE  
Rochester, MN 55904-7996

REFERENCE: Annexation #03-04 by the owners of Lots 1, 2, 11, 12 & 13 Osjor Estates 3<sup>rd</sup> Subdivision to annex these lots and the abutting road right-of-way approximately 6 acres.

Dear Ms. Garness:

Our review of the referenced petition is complete and our comments follow:

1. The property may be subject to the water availability fee, connection fees or assessments. The Land Development Manager (507-281-6198) at the Public Works Department determines the applicability of these fees.
2. This area is within the Northeast High Level Water System Area, which is currently available on the south side of Viola Rd NE just east of 35<sup>th</sup> Ave NE intersection. Approximate static pressures will range from 40 to 53 PSI.

Please contact us at 507-280-1600 if you have questions.

Very truly yours,

Donn Richardson  
Water

C: Doug Rovang, RPU  
Mike Engle, RPU  
Mark Baker, City Public Works  
Vance Swisher, Fire Prevention  
Max & Lorene Robinett  
Bruce & Nancy Rohde  
Larry & Connie Fitzgerald  
Larry & Linda Anderson  
Dean & Ruth Lindstrom  
WHKS & Company

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# ROCHESTER

— Minnesota —

TO: Consolidated Planning Department  
2122 Campus Drive SE  
Rochester, MN 55904

DEPARTMENT OF PUBLIC  
WORKS  
201 4<sup>th</sup> Street SE Room 108  
Rochester, MN 55904-3740  
507-287-7800  
FAX – 507-281-6216

FROM: Mark E. Baker

Date: 2/14/03

The Department of Public Works has reviewed the requested application for Annexation #03-04 for Lots 1,2,3,11,12,& 13, Osjor Estates 3rd. The following are Public Works comments on the proposal:

1. A petition has been received by the Owners, to serve this property with Sanitary Sewer through the WQPP. The petition area can be served by City Sanitary Sewer.





The hand to reach for...  
**DAVID A. KAPLER**  
Fire Chief

DATE: February 7, 2003  
TO: Jennifer Garness, Planning  
FROM: R. Vance Swisher, Fire Protection Specialist  
SUBJECT: Annexation Petition # 03-04  
Lots 1, 2, 11, 12, 13 of Osjor Estates 3<sup>rd</sup> Subdivision.

With regard to the above noted annexation petition plan, the fire department has the following requirement:

1. All buildings are required to display the proper street address number on the building front, which is plainly visible and legible from the street fronting the property. Number size must be a minimum 4" high on contrasting background when located on the building and 3" high if located on a rural mail box at the public road fronting the property. Reflective numbers are recommended.

c: Donn Richardson, RPU, Water Division

# Memo

**To:** Mayor and City Council

**From:** Gary Neumann *G.N.*

**Date:** September 30, 2002

**Re:** Potential Annexation of Osjor Estates 6 properties

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As you will recall, 5 or 6 property-owners in Osjor Estates want to obtain municipal sewer under the WQPP program. However, the Township Board has previously indicated that they will not enter into an Orderly Annexation agreement to cooperate on this project. The properties involved are contiguous to the City and could request immediate annexation. At the present time, the property-owners are considering whether or not to request annexation at this time, to wait until next spring, or to drop the matter entirely.

I received the attached letter today from Tony Ebert of Haverhill Township explaining the Township's position not to enter into an Orderly Annexation agreement and the Township's request that the City not annex the properties if the City is requested to do so by the property-owners. I am providing you with a copy of the Township letter for your information.

Enclosure

cc: Stevan Kvenvold  
Richard Freese  
*Jim Loehr*

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3688 Valley Ridge Ct NE  
Rochester. MN 55906

September 24, 2002

John Huntsinger,  
City Council Members  
201 4th Street SE  
Rochester, MN 55904

**Subject: Response to letter from James Loehr dated August 30, 2002 to the Haverhill Town Board.**

Five residents from Osjour Estates Subdivision requested annexation of their properties to the City of Rochester by an Orderly Annexation Agreement between Haverhill Township and the City. At the September 18th Haverhill Town Board meeting the decision of the Board was to not enter into an Orderly Annexation with Rochester and to oppose any efforts of annexation of these five properties for the following reasons:

The Osjour Subdivision, consisting of over 40 homes, were offered an opportunity to participate in Rochester's Water Quality Program. After a number of meetings and research by the Homeowners Association they voted to **not request annexation** by a majority vote. Haverhill Board members would have respected and supported their vote if they decided to take advantage of the Water Quality Program. We believe that decision should be respected and we believe that City Council should respect that vote.

The Subdivision should not be split by annexation. Subdivisions are created as a whole with a common infrastructure, a common community purpose, and single governing entity. In the case of Osjour Estates they are served by a common water well system controlled by a neighborhood homeowners association.

The roads in the Subdivision are all platted township roads and splitting the Subdivision would cause maintenance, taxing and assessment issues.

We do not believe that Minnesota State Annexation Laws intended subdivisions to be split and served by two different governing bodies. We do not recall any instances where the city has annexed only a few houses of a subdivision in this manner. There have been a few instances where individual lots of a subdivision were annexed but these were exceptional circumstances and were the appropriate decisions.

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A survey by University of Minnesota (Ken Olsen) confirmed that the majority of septic systems in the Osjour subdivision are in good working order and the few with minor problems can be rectified on their existing properties. With proper maintenance these septic systems can last for 10 to 20 additional years or longer. Of the five properties that are requesting annexation, only one is experiencing septic problems. That owner can fix the problem by moving his drain field to a different location on his property. Lawler Environmental and the Townships Septic Inspector have verified this. If the problem could not be fixed on the property the Township would welcome a solution by the City to provide sewer hookup.

(We note in the report by staff that the area to be annexed is 7.04 acres and contains six properties. The feasibility report states, "The lots are approximately ½ acre in size and are unable to absorb the nitrates created from septic systems." **The properties are actually one (1) acre more or less.** They also state that " There is an increasing threat of contamination to the City of Rochester's ground water supply as the existing septic system and **wells begin to fail**" The Osjour Subdivision has one community well that supplies all the homes and because of its size is regulated and inspected as a community well and must adhere to the same regulations that govern City wells.)

Since these septic systems are no threat to Rochester's water recharge area, the monies from a sales tax supported Water Quality Program can be better used in other areas of the Olmsted County that are in danger of contaminating the water recharge area. .

Three of the properties cannot be served by gravity sewer and will require grinders and lift pumps, at additional cost to the City and property owners. Additionally the City and property owners must share \$21,000 for roadway restoration in an area where septic systems are not a threat.

The Township believes that a partial annexation of a subdivision in this manner would set a precedence that we are not willing to accept. We also believe that an annexation by ordinance does not allow for annexation or installation of sewer lines in a Township owned road.

The Haverhill Town Board requests the City Council to not support this annexation .

Respectfully,  
Tony Ebert  
Chairman, Haverhill Town Board

cc: Bruce Rhode, Max Robinett, Dean Lindstrom, Jerome Lawler

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**MINUTES OF THE  
CITY OF ROCHESTER PLANNING COMMISSION  
2122 CAMPUS DRIVE SE – SUITE 100  
ROCHESTER MN 55904**

Minutes of the regularly scheduled meeting of the City Planning and Zoning Commission held on Wednesday, February 26, 2003, at 7:00 p.m. in the Council/Board Chambers of the Government Center, 151 4th Street SE, Rochester, MN.

**Members Present:** Ms. Lisa Wiesner, Chair; Mr. Michael Quinn, Vice Chair; Ms. Mary Petersson; Ms. Leslie Rivas; Mr. Randy Staver; Mr. Robert Haeussinger; and Mr. James Burke

**Members Absent:** Mr. John Hodgson and Mr. Paul Ohly

**Staff Present:** Mr. Brent Svenby and Ms. Jennifer Garness

**Other City Staff Present:** Ms. Pat Alfredson, City Attorney

**ADMINISTRATIVE BUSINESS:**

Mr. Haeussinger made a motion to approve the minutes of February 12, 2003, with the revision that Ms. Petersson adjourned the meeting. Mr. Staver seconded the motion. The minutes from February 12, 2003 were approved unanimously.

Mr. Svenby asked that the memo from CUDE (regarding nonresidential parking standards) be discussed under "Other Business."

Ms. Wiesner clarified that Annexations #03-03, #03-04, and #03-05 were not public hearing items and asked the Commission to move them to the head of the agenda.

Ms. Petersson made a motion to approve the agenda, hearing Annexations #03-03, #03-04, and #03-05 ahead of the "Continued Items" and adding a discussion under "Other Business" with regard to the memo submitted from CUDE. Ms. Rivas seconded the motion. The motion carried unanimously.

**ANNEXATIONS:**

Annexation Petition #03-03 by Arcon Development, Inc. to annex approximately 19.35 acres of land located west of 18<sup>th</sup> Avenue SW (CR 147), west of Hart Farms Subdivision, north of 40<sup>th</sup> Street SW. The property is located in the North Half of the SW ¼ of Section 22 of Rochester Township.

Ms. Petersson moved to recommend approval of Annexation Petition #03-03 by Arcon Development, Inc. Mr. Burke seconded the motion. The motion carried 7-0.

\* Annexation #03-04 by the owners of Lots 1, 2, 11, 12, 13 Osjor Estates 3<sup>rd</sup> Subdivision. The applicants request annexation to the City of Rochester. The area to be annexed includes Lots 1, 2, 11, 12, and 13 Osjor Estates Third Subdivision and the abutting road rights-of-way. The properties are located in Sections 20 and 29 Haverhill Township and include approximately 6 acres of land.

Mr. Staver moved to recommend approval of Annexation #03-04. Ms. Petersson seconded the motion. The motion carried 7-0.

Annexation Petition #03-05 by West 19 Development, LLC to annex approximately 56.44 acres of land located north of the Dakota, Minnesota & Eastern Railroad along US Highway 14 West and east of 50<sup>th</sup> Avenue NW. The property is located in a part of the NW ¼ of Section 29 of Cascade Township.

Mr. Burke moved to recommend approval of Annexation Petition #03-05 by West 19 Development, LLC. Ms. Petersson seconded the motion. The motion carried 7-0.

CONTINUED ITEMS:

Ms. Wiener asked if the Commission could hear all three continued items simultaneously.

Mr. Svenby responded yes.

Annexation Petition #03-01 by Rad Nasrin to annex approximately 12 acres of land located north of Viola Road (CR 2), west of Osjor Estates and east of Schaeffer Lane NE. A General Development Plan for the entire property, and a Zoning District Amendment for a portion of the property are being considered concurrent with this application.

AND

Zoning District Amendment #03-02 by Todd Ustby to zone approximately 2.21 acres R-1X (Mixed Single Family Extra) upon annexation to the City of Rochester. An Annexation petition and General Development Plan are being considered concurrent with this petition.

AND

General Development Plan #200 by Todd Ustby to be known as Viola Hills Subdivision. The Applicant is proposing to develop approximately 12 acres of land located west of Osjor Estates, east of Schaeffer Lane and north of Viola Road (CR 2) with single family homes and townhomes. The property is proposed to be served by a public road, with two cul-de-sacs. An Annexation petition for the entire property, and a Zoning District Amendment for a portion of this property are being considered concurrent with this petition.

Mr. Brent Svenby presented the staff reports, dated January 30, 2003 and February 6, 2003, to the Commission. The staff reports are on file at the Rochester-Olmsted Planning Department.

Mr. Svenby explained that the items were continued at the last meeting due to the proposed access location to Viola Road NE. He stated that there was not good sight distance. At this point, the County has it in the CIP to regrade Viola Road NE in 2005. The applicant's consultant has been working with the County engineer in obtaining a temporary access to the property. He showed where it was located (westerly portion of site).

Mr. Svenby explained that Ms. Baker revised the staff recommended conditions for the general development plan and asked that the Commission act on the revised conditions that were handed out to them.